



**TRANSFER OF FOREIGN  
EMPLOYEES TO THE  
UNITED STATES  
L-1 Intracompany  
Transferee**

The smooth transfer of your company's key employees to the United States is always of great concern. Most executives, managers and employees with specialized knowledge can come to work in the United States using the L-1 intracompany transferee visa. An introduction to that visa which includes changes made by the Immigration Act of 1990 is presented here. Be sure to consult with an attorney experienced in immigration matters to see if this visa is appropriate for your situation.

### **Which Companies Qualify to Transfer Employees to the United States?**

Only those companies which exactly meet the Immigration Service's definitions of a parent, branch, subsidiary or affiliate, qualify to petition for an L-1 intracompany transferee visa. These definitions are very precise and require an analysis of both the foreign and U.S. ownership of the companies. Both the foreign and U.S. operations must be doing business for the entire time that the L-1 employee is working in the United States.

There are provisions to allow a new office to open in the United States provided that evidence is submitted to the Immigration Service to prove that the new office has a suitable place to do business, a qualifying business structure exists, and that the employer has the ability to pay the

employee and to begin doing business in the United States.

Each case must be well documented with evidence proving all of the legal criteria are met.

### **Which Employees Qualify as L-1 Intracompany Transferees?**

Intracompany transferees are executives, managers, and employees with specialized knowledge. The definition of manager includes an employee who manages an essential function of the business within qualifying organization. Specialized knowledge employees must have special knowledge of the organization's product, service, research, equipment, management, or other interests and its application in international markets, or an advanced knowledge or expertise in the organization's processes and procedures. Classifying the employee in the right category is important, particularly if the company might later want to sponsor the employee for permanent residence the intracompany transferee petition always should be structured to allow the easiest transition to permanent resident status.

A key qualification for all employees is continuous employment abroad by a qualifying foreign employer for one year within three years preceding the time of the employee's application for admission into the United States.

## **How Long Can L-1 Employees Remain in the United States?**

The L-1 is a temporary visa with specific limitations on periods of stay in the United States.

- If the employee is qualified as a manager or executive, he or she may remain in the United States for up to seven years.
- If the employee is classified in the specialized knowledge category, he or she may stay up to five years.
- An exception to these limits exists where the employment in the United States is seasonal, intermittent or an aggregate of six months or less a year.

## **How Does the Company Get an L-1 Visa for its Employees?**

A petition for an L-1 visa must be filed by the company with the Immigration Regional Service Center having jurisdiction over the place of intended employment. Except for a company which is opening a new office in the United States, the initial petition may be granted for a three-year period and renewed in two-year increments up to the maximum permitted stay. New offices are limited to an initial twelve-month period with extensions depending on the business performance of the new office. Once the petition is approved, the employee may apply for an L-1 visa at a U.S. Consulate abroad. If the employee is in the United States and maintaining some other legal status, he or she may apply for a change of status in the United States.

Spouses and unmarried children under 21 years old of intracompany transferees may be granted L-2 visas. An L-2 visa holder is not permitted to work in the United States.

## L-1 QUESTIONNAIRE

### COMPANY ABROAD

- Incorporation Documents for Company, which should include the following:
  - Articles of Incorporation
  - Bylaws and Officer Designation
  - Stock certificates showing percentage of ownership
  - Name change or other similar documentation if any exits;
- Applicable business permits and/or licenses;
- Financial documentation, including tax returns (for the past three years), sales tax payments, audited financial statements, any country taxes paid (for the past year), payroll taxes paid for the past three months;
- Name registration;
- Company annual reports for the past three years;
- Bank statements;
- Marketing materials, website, brochures;
- Business Lease and or deed;
- Mortgage payments and/or rent receipts, if applicable;
- List of employees and positions;
- Organizational chart of employees and positions;
- Copies of advertisements;
- Copies electric, water, phone bills;
- Sample of company (if any);
- Copies of invoices or sales orders (5-10 over a period of the last six months);
- Copies of awards, memberships or special recognition for the foreign company.

*All foreign documents must have a certified English translation*

### U.S. CORPORATION

- Corporate documents including:
  - Articles of Incorporation
  - Bylaws
  - Stock certificates evidencing percentage of ownership
  - Fictitious name registration, if any
  - Any other relevant corporate documents;
- Business permits, licenses, and registration, which may include:

- Fire permits
  - County/City licenses
  - Certificate of Occupancy;
- Company annual report;
  - Tax returns for the past three years (if available) or audited financial statement;
  - Sales tax, payroll tax, state tax records for the past year;
  - Marketing materials/website/brochures;
  - Business Lease or mortgage;
  - Rent payments;
  - Copies of telephone, electric, water bills ;
  - Bank statements;
  - Electric Bills and any other bills with name and address of the business;
  - List of employees and positions;
  - Organizational chart;
  - Copies of advertisements;
  - Sample invoices or sales contracts or any other contract made on behalf of the company;
  - Copies of any awards, memberships or special achievements by the company, such as Chamber of Commerce membership, etc.;
  - Sample of company products (if any);
  - *FOR A START UP ONLY provide a Comprehensive Business Plan.*

**DOCUMENTS FOR EMPLOYEE BEING TRANSFERRED TO THE U.S.**

- Employees job title and description abroad for the last year in a professional and managerial position;
- Employees proposed job title (a professional managerial position) and description and salary offered in U.S.;
- Employees resume;
- Copy of Passport (in color if possible) and I-94 (if employee is in the US);
- Copies of employees academic degrees and transcripts;
- Evidence that the employee has been employed abroad for at least one year of the three years preceding the filing of the L-1A application, such as:
  - Pay stubs
  - Payroll documents
  - Letter from Company Abroad
  - Tax returns evidencing the employment
  - Any other relevant documentation

